

EXHIBIT 1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Tether and Bitfinex Crypto Asset Litigation

Case No. 19 Civ. 9236 (KPF)

DECLARATION OF BRUCE A. GREEN

I, Bruce Green, declare as follows:

1. I am the Louis Stein Chair at Fordham University School of Law, where I teach professional responsibility and direct the Louis Stein Center for Law and Ethics.

2. I have been admitted to practice law in New York since 1982. I have also been admitted to practice before the United States District Courts for the Southern and Eastern Districts of New York, and the Supreme Court of the United States.

3. I have been engaged by Selendy Gay Elsberg PLLC (“Selendy Gay Elsberg”) and Schneider Wallace Cottrell Konecky LLP (“Schneider Wallace”), two firms who along with Roche Freedman have been appointed interim class counsel for the Plaintiffs, to opine on the nature of interim class counsel’s duties and ethical obligations to absent members of the putative class.

I. Qualifications and Background

4. My qualifications to provide expert opinions on questions of lawyers’ professional conduct are set forth more fully in my curriculum vitae, a copy of which is attached as Exhibit A, and is also available online here: https://www.fordham.edu/download/downloads/id/1503/bruce_green.pdf.

5. After graduating from Columbia Law School in 1981, I served as a law clerk to Judge James L. Oakes of the United States Court of Appeals for the Second Circuit, and then as a law clerk to Justice Thurgood Marshall of the Supreme Court of the United States. I then became an Assistant United States Attorney for the Southern District of New York, eventually serving as Deputy Chief and then Chief of the Criminal Division’s appeals unit.

6. I have been a full-time law professor at Fordham University since 1987, and I have

regularly taught courses in professional responsibility since then. I teach both a survey course on professional responsibility and a seminar on ethics in criminal advocacy. In the survey course, I assign a casebook that I co-authored: Jefferson, Pearce, Green et al., *Professional Responsibility: A Contemporary Approach* (4th ed. 2020).

7. I have organized or co-organized numerous conferences and programs for academics and practitioners on issues of legal ethics, and I speak frequently at Continuing Legal Education and academic programs regarding legal ethics issues in litigation.

8. I have written extensively—well over 150 book chapters and articles in law reviews and other legal periodicals, mostly on legal ethics issues. Among the topics that I have recently addressed are the professional obligations of lawyers for a class or putative class. *See* Bruce A. Green & Andrew Kent, *May Class Counsel Also Represent Lead Plaintiffs?*, 72 Fla. L. Rev. 1083 (2020).

9. I have engaged extensively in various professional work relating to legal ethics, primarily involving drafting, interpreting, or enforcing professional conduct rules. In New York, I am the immediate past chair of the New York City Bar's Committee on Professional Ethics; in the New York State Bar Association, I am a member and past chair of the Committee on Professional Ethics, and I serve on the Committee on Standards of Attorney Conduct; and I previously served on the Departmental Disciplinary Committee of the First Department. On the national level, I chair the Multistate Professional Responsibility Examination drafting committee; I previously served on the American Bar Association ("ABA") Standing Committee on Ethics and Professional Responsibility, to which I am now a liaison; I chaired the ethics committees of the ABA's Litigation and Criminal Justice Sections; I served on the ABA Litigation Section's Task Force on Settlement Ethics; I was Reporter to the ABA Commission on Multijurisdictional Practice; and I chaired the Section on Professional Responsibility of the Association of American Law Schools. In recognition of my work in the field of legal ethics, I was the 2018 recipient of the Michael Franck Professional Responsibility Award.

10. I occasionally testify as an expert witness, give advice, draft amicus briefs, and render other professional services on lawyers' professional conduct. As an expert witness, I render opinions in

my individual capacity and do not speak on behalf of any of the entities with which I am, or have been, associated.

11. I am being compensated for my work on this engagement at the rate of \$1,100 per hour for time spent analyzing the relevant legal issues and preparing this declaration. The payment of my fees is not contingent upon either the opinions I render in this matter or the outcome of this matter.

II. Statement of Facts

12. The documents that I have considered and relied on in formulating my opinions in this action are cited herein or otherwise listed in Exhibit B.

13. Based on my review of the documents listed in Exhibit B, I understand the following to be the relevant events giving rise to this opinion.

14. On October 6, 2019, Roche Freedman LLP ("Roche Freedman") filed the original complaint in this matter, with four of the five current named plaintiffs. ECF 1.

15. On January 8, 2020, Kirby McInerney LLP and Radice Law Firm P.C. (together, the "Kirby Group") filed a complaint making substantially similar allegations (SDNY Case No. 20 Civ. 169), which was subsequently consolidated with the above captioned matter on January 21, 2020. ECF 67.

16. After briefing and argument on various firms' motions to serve as interim lead counsel, on February 27, 2020, the Court ordered that Selendy Gay Elsberg, Schneider Wallace, and Roche Freedman be appointed, and denied competing motions from the Kirby Group as well as from Robbins Geller, Rudman & Dowd LLP. ECF 97.

17. On June 5, 2020, Selendy Gay Elsberg, Schneider Wallace, and Roche Freedman filed the Amended Complaint with the current group of named plaintiffs. ECF 114.

18. I understand that on August 26, 2022, video recordings of Kyle Roche, a founding partner of Roche Freedman, were published in an article on the website "Cryptoleaks.info." Mr. Roche was recorded making certain statements about class action litigation and the blockchain industry. I understand that Mr. Roche does not deny the authenticity of the recordings, though he does maintain the videos were edited selectively.

19. On August 31, 2022, Mr. Roche (though not Roche Freedman as a firm) moved to withdraw as counsel in the above captioned matter. ECF 229.

20. That same day, the Bitfinex and Tether Defendants (the “B/T Defendants”) submitted a response, asking the Court to terminate Roche Freedman as interim class counsel. ECF 230.

21. Defendants Bittrex and Poloniex (the “Exchange Defendants”) subsequently joined in the B/T Defendants’ request. ECF 231.

22. On September 2, 2022, Roche Freedman filed a response letter attaching declarations from the named plaintiffs in this matter. In their declarations, the named plaintiffs indicated they oppose the removal of Roche Freedman as interim class counsel. ECF 232.

23. Also on September 2, 2022, Selendy Gay Elsberg and Schneider Wallace submitted a joint response “in their capacity as interim class counsel” and “specifically not on behalf of the named plaintiffs,” stating they owe a duty to “the interests of the class as a whole” and that—in their judgment—“Roche Freedman’s continued involvement in the litigation is not in the best interests of the class.” ECF 234 at 1 & n. 1.

24. On September 5, 2022, the Kirby Group filed a response letter requesting that they be appointed as lead interim class counsel. In their filing, they claim Selendy Gay Elsberg and Schneider Wallace have an “untenable” conflict with the named plaintiffs because the named plaintiffs want Roche Freedman to stay in the litigation. ECF 235.

25. On September 6, 2022, Roche Freedman filed another letter stating (in relevant part) that, “contrary to what seems to be implicit in our co-counsel’s submission, their clients are the named Plaintiffs—not absent class members.” ECF 236 at 3-4.

III. Interim Class Counsel Owes Duties to the Class as a Whole, Including to its Absent Class Members

26. The Federal Rules of Civil Procedure explicitly establish class counsel’s responsibility to act in the best interests of the class, which includes absent class members, rather than in the best interests of its class representatives. Rule 23(g)(4) provides: “*Duty of Class Counsel*. Class counsel must fairly

and adequately represent the interests of the class.” Likewise, Rule 23(g)(1)(B) provides that, in appointing class counsel, the court “may consider any other matter pertinent to counsel’s ability to fairly and adequately represent the interests of the class.” *See also* Fed. R. Civ. P., Rule 23(g)(2) (“If more than one adequate applicant seeks appointment, the court must appoint the applicant best able to represent the interests of the class.”).

27. The accompanying advisory committee notes reinforce that, once a class is certified, although class counsel confer with class representatives, class counsel’s loyalty is to the class, not to the class representatives individually. The advisory committee notes observe in pertinent part:

[T]he primary responsibility of class counsel, resulting from appointment as class counsel, is to represent the best interests of the class. The rule thus establishes the obligation of class counsel, an obligation that may be different from the customary obligations of counsel to individual clients. Appointment as class counsel means that the primary obligation of counsel is to the class rather than to any individual members of it. The class representatives do not have an unfettered right to “fire” class counsel. In the same vein, the class representatives cannot command class counsel to accept or reject a settlement proposal.

Fed. R. Civ. P., Rule 23, Notes of Advisory Committee on 2003 amendments. *See also* Kincade v. Gen. Tire & Rubber Co., 635 F.2d 501, 508 (5th Cir. 1981) (“the ‘client’ in a class action consists of numerous unnamed class members as well as the class representative”).

28. The responsibilities of interim class counsel are essentially the same. A law firm appointed to serve as interim class counsel assumes responsibilities to act for the benefit of the putative class, not solely to serve the class representatives’ interests or to take direction from class representatives as a lawyer might take direction from an individual client. Rule 23(g)(3) recognizes interim counsel’s duties to the putative class, insofar as it states that “[t]he court may designate interim counsel *to act on behalf of a putative class* before determining whether to certify the action as a class action.” (Emphasis added.) The accompanying advisory committee notes reinforce this understanding. *See* Fed. R. Civ. P., Rule 23, Notes of Advisory Committee on 2003 amendments (“Paragraph (2)(A) authorizes the court to designate interim counsel during the pre-certification period if necessary *to protect the interests of the putative class.*”) (emphasis added).

29. Leading commentary on Rule 23 concurs that, even prior to class certification, interim class counsel's responsibilities are to the class:

[A]lthough prior to class certification there may be no formal attorney-client relationship between putative class counsel and a putative class, there is little doubt that an attorney pursuing a class suit has some duty to the prospective class and generally must act in the class's best interests. Courts sometimes say that putative class counsel have a fiduciary duty to the incipient class. The Supreme Court's re-affirmation that putative class representatives (and hence their counsel) lack the authority to bind the un-certified class likely does not lessen counsel's duty to safeguard that group's interests once counsel file suit on their behalf. This norm is especially pertinent in today's practice environment, where many class actions are litigated as such for years without ever being certified and are certified only once a settlement has been reached.

6 Newberg and Rubenstein on Class Actions § 19:2 (6th ed., June 2022 Update). *Accord* Green & Kent, *supra*, at 1093 ("After filing the class action complaint but prior to certification, counsel has no 'formal' attorney-client relationship with the putative class but, according to caselaw and official commentary on FRCP Rule 23, 'generally must act in the class's best interests.'"). Indeed, some courts have expressed the view that counsel owe duties to the putative class as soon as the class action is filed, i.e., even before the court appoints them as interim counsel. *See, e.g., In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 801 (3d Cir. 1995) ("[C]lass attorneys, purporting to represent a class, also owe the entire class a fiduciary duty once the class complaint is filed.").

30. Even if Rule 23(g)(3) did not expressly provide for them "to act on behalf of a putative class," lawyers appointed to serve as interim class counsel would have to assume this responsibility for the class action process to achieve its objectives. Before the class is certified, Rule 23 permits interim class counsel to negotiate a settlement and conduct all the investigation and litigation preceding it. A district court's decision whether to approve the proposed settlement will turn, in part, on whether interim class counsel "adequately represented the class" in conducting this work. *See* Fed. R. Civ. P., Rule 23(e)(2)(A) ("If the proposal would bind class members, the court may approve it only after a hearing and only on finding that it is fair, reasonable, and adequate after considering whether . . . the class representatives and class counsel have adequately represented the class . . ."); *see, e.g., In re Am. Express Anti-*

Steering Rules Antitrust Litig., 2015 U.S. Dist. LEXIS 102714 (E.D.N.Y. Aug. 4, 2015) (Garaufis, J.) (disapproving proposed settlement because of co-interim class counsel’s misconduct contrary to the interests of the putative class). Implicit in this procedure is that counsel must act in the interest of the putative class—that is, in the interest of absent putative class members—from the very outset. *See* 6 Newberg and Rubenstein on Class Actions § 19:2, quoted in ¶ 29 above; *see also* Green & Kent, *supra*, at 1120-23 (“For reasons others have identified, courts should declare, as some have, that lawyers filing class actions assume fiduciary duties to absent class members or to the nascent class. . . . [I]t seems odd to think that the lawyer’s loyalty to the class in negotiating a class settlement, and therefore the lawyer’s approach to the negotiations, should differ depending on whether the lawyer is negotiating for the nascent class prior to certification or for the class as a ‘client’ after class certification.”).

IV. In the Event of a Disagreement Between Interim Class Counsel and Named Plaintiffs, Interim Class Counsel’s Primary Duties Are to the Class as a Whole

31. It follows that when, in class counsel’s disinterested professional judgment, the named plaintiffs’ preferences are at odds with the class’s best interests, class counsel must act in accordance with the class’s best interests. The above-quoted advisory committee notes give two recurring illustrations. First, class counsel need not to accede to class representatives’ direction to withdraw from the representation. Second, class counsel is not required to “accept or reject a settlement proposal” at the class representatives’ direction. Fed. R. Civ. P., Rule 23, Notes of Advisory Committee on 2003 amendments, quoted in ¶ 27 above. In both contexts, class counsel must act in the best interests of the class. *See, e.g., Banyai v. Mazur*, 2004 U.S. Dist. LEXIS 17572, *3-4 (S.D.N.Y. Sept. 1, 2004) (Stein, J.) (denying named plaintiffs’ motion to discharge class counsel, who “are obligated to make independent judgments as to the interests of class members and can ‘not allow decisions on behalf of the class to rest exclusively with the named plaintiffs’”) (quoting *Maywalt v. Parker & Parsley Petroleum Co.*, 67 F.3d 1072, 1078 (2d Cir. 1995)); Ann. Manual Complex Lit. § 21.641 (4th ed.) (“Class counsel must discuss with the class representatives the terms of any settlement offered to the class. Approval or rejection of the offer by the representatives, however, does not end the attorneys’ obligations, because they must act in the best interests of

the class as a whole.”); see also Green & Kent, *supra*, at 1097 & n. 63-64 (“The class action lawyer does not take direction from the named plaintiffs, as a lawyer would from a client. ‘[A] class representative may not singlehandedly veto a proposed settlement’ . . .”) (quoting *Hayes v. Harmony Gold Mining Co.*, 509 F. App’x 21, 23 (2d Cir. 2013)).

32. This principle is equally applicable to interim class counsel. As discussed, interim class counsel owes a responsibility under Rule 23 to act in the best interest of the putative class, including absent members, just as class counsel acts in the best interest of the certified class. It follows that when class counsel and named plaintiffs disagree about what is in the best interest of the class, class counsel is not obligated to defer to the named plaintiffs. Rather, class counsel should act in accordance with their own best professional judgment about what is in the putative class’s best interest.

33. These principles are fully applicable here. Both the interim class counsel and the named plaintiffs have a responsibility to act in the best interests of the putative class. However, two of the three interim class counsel, Selendy Gay Elsberg and Schneider Wallace, disagree with the named plaintiffs on the question now before the Court—namely, whether Roche Freedman’s continued role as co-counsel would serve the putative class’s best interests. The named plaintiffs seek Roche Freedman’s continued representation, and Roche Freedman is advocating consistently with their preference. Selendy Gay Elsberg and Schneider Wallace, as a matter of professional judgment, have concluded that the interests of the class as a whole will be best served by Roche Freedman’s withdrawal from the representation. As interim class counsel, these two firms properly fulfill their responsibilities to the putative class by conveying their best professional judgment to the Court, although it differs from the named plaintiffs’ view. Notably, were they to remain silent, no counsel would speak for the putative class’s best interests as they see it. Conversely, advocacy of the respective views puts the Court in the best position to fulfill its own “ultimate responsibility” to resolve the disagreement between two interim class counsel and the class representatives “as to the course to be followed.” *Maywalt v. Parker & Parsley Petroleum Co.*, *supra*, 67 F.3d at 1078.

* * *

34. I declare under penalty of perjury that the foregoing is true and correct.

Dated September 30, 2022

A handwritten signature in black ink, appearing to read "Bruce A. Green", positioned above a horizontal line.

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EXHIBIT A

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Bar Admissions

New York State (since 1982)
U.S. District Courts for the Southern and Eastern Districts of New York
U.S. Supreme Court

Education

Columbia University School of Law: J.D. 1981
Honors: James Kent Scholar; Harlan Fiske Stone Scholar
Associate Editor, *Columbia Law Review*

Princeton University: A.B. 1978, *summa cum laude*

Current Legal Employment

Fordham University School of Law:
Louis Stein Chair of Law, since 1997
Professor, 1996-97; Associate Professor, 1987-96
Director, Louis Stein Center for Law and Ethics, since 1997
Director, Stein Center for Ethics and Public Interest Law, 1992-97

Prior Full-time Legal Employment

New York University School of Law: Visiting Professor: January-May 2007

Office of the United States Attorney for the Southern District of New York:
October 1983 to August 1987, Assistant United States Attorney
Deputy Chief Appellate Attorney, 1986-87; Chief Appellate Attorney, 1987

U.S. Supreme Court: Law clerk to Justice Thurgood Marshall, 1982-83

U.S. Court of Appeals for the Second Circuit: Law clerk to Judge James L. Oakes, 1981-82

Other Legal Positions

Departmental Disciplinary Committee, App. Div., 1st Department: Member, 1997-2002

New York City Conflicts of Interest Board: Member, Nov. 1995 to March 2005

Handschu Authority: Civilian member, July 1994 to Nov. 1995

Office of Investigations Officer (U.S. v. I.B.T.): Special Counsel (part-time), 1991

Office of Independent Counsel Lawrence Walsh, Associate Counsel (part-time), 1988-91

N.Y.S. Commission on Government Integrity: Consultant and special investigator, 1988-90

Columbia University School of Law: Adjunct Professor (part-time), 1990

Office of the United States Attorney for the Southern District of New York: Special Assistant United States Attorney (part-time), September 1987 to June 1988

Fordham University School of Law: Adjunct Assoc. Professor (part-time), 1985-87

Professional Service

American Bar Association:

Commission on the American Jury Project: member, 2006-2008
Commission on Multijurisdictional Practice: reporter, 2000-2002
Coordinating Group on Bioethics and the Law: member, 1997-2003
Criminal Justice Section:
 Chair: 2010-2011
 Chair-elect: 2009-2010
 Council: member, 2011-2017
 Criminal Justice Standards Comm.: chair, 2017 to present; member, 2013-2017
 First Vice Chair: 2008-2009
 Ethics, Gideon and Professionalism Committee: co-chair, 2006-09
Death Penalty Representation Project: member, 2006-09, 2014-17
Section of Individual Rights and Responsibilities:
 Chair, Committee on Privacy and Information Protection, 2014-15
Section of Litigation:
 Task Force on Sound Advice, 2012-13
 Task Force on Implicit Bias: member, 2011-12
 Task Force on the Litigation Research Fund: Chair, 2007-2011
 Division VII (Task Forces): Co-Director, 2007-2008
 Council member, 2004-07
 Committee on Law Faculty Involvement: co-chair, 1998-2001, 2003-2004
 Civil Justice Institute: member, 2001-03
 Task Force on Ethical Guidelines for Settlement Negotiations: member, 2000-02
 Ethics 2000 Task Force: member, 1999-2000
 Committee on Ethics and Professionalism: co-chair, 1995-1998
 Task Force on the Independent Counsel Act: reporter, 1997-1999
 Rep. to Sec./Div. Committee on Professionalism and Ethics, 1996-2003
 Committee on Amicus Curiae Briefs: chair, 1991-1995
Standing Committee on Ethics and Professional Responsibility: member, 2008-2011
Standing Committee on Professionalism: reporter, 2000-2001
Steering Committee for the Symposium on the Multijurisdictional Practice of Law:
reporter, 1999-2000
 Task Force on the Attorney-Client Privilege: reporter, 2004-2010
 Task Force on Law Schools and the Profession: consultant, 1991-92

Association of American Law Schools: Chair, Section of Professional Responsibility, 1999-2000

Criminal Law Bulletin: Contributing editor, 1988-1998

Evan B. Donaldson Adoption Institute: Ethics Advisory Committee: member, 1998-2001

Federal Bar Council:

Board of Trustees, member, 2018 to present
Second Circuit Courts Committee: member, 1994-1997; chair, Subcommittee on Criminal Law and Ethics
Federal Bar Council News: member of the Editorial Board, 1995-2005
Inn of Court: master, 2000-2002

International Association of Legal Ethics: Treasurer, 2019 to present; Chair, Conference Planning Advisory Committee, 2014-16; Director, 2010-13

Legal Ethics: Member of Advisory Board, 2008 to present

National Conference of Bar Examiners, MPRE Drafting Committee, Chair, 2018 to present; Member, 2001-2018

New York City Bar:

Committee on Professional and Judicial Ethics: chair, 2016-2020; member, 1994-1997, 2003-2006, 2015-16
Litigation Funding Working Group: member, 2018-2020
Executive Committee: member, 2010-14
Working Group on the NYS Bar Exam: member, 2014
White Collar Crime Committee: member, 2013-16
Council on Criminal Justice: member, 2009-13
Delegate to NYS Bar Association, 2003-07
Nominating Committee: member, 2005
Ethics 2000 Committee: member, 1999-2001
Jt. Committee on the Legal Referral Service: chair, 1993-96; member, 1996-2000
Committee on International Access to Justice: member, 1999-2000
Committee on Disaster Plan: member, 1996-1997
Marden Lecture Committee: member, 1991-1994
Criminal Law Committee: member, 1991-1994
Task Force on Lawyer Training: member, 1992-1994
Corrections Committee: member, 1988-1991

New York County Lawyers' Association:

Director, 2004-2007, 2008-2012, 2013-2017
Delegate to NYS Bar Association, 2009-2011
Member, Committee on Professional Ethics, 2014 to present

New York State Bar Association:

Committee on Professional Ethics: Chair, 1998-2001; member, 1991 to present
Committee on Standards of Attorney Conduct: member, 1997 to present
House of Delegates member, 2003-2007, 2009-2015
Task Force on Attorney Client Privilege, 2006-2008
Task Force on “Pay to Play” Concerns, member, 1998-2000

New York State Continuing Legal Education Board: Member, 2008-2011

New York State Task Force on Attorney Professionalism and Conduct: Member, 1996-1998

Awards

Michael Franck Professional Responsibility Award, given by the ABA Center for Professional Responsibility, May 31, 2018

Powell Pierpont Award, given by the N.Y.C. Conflicts of Interest Board “for outstanding service to the New York City Conflicts of Interest Board,” May 23, 2006

New York State Bar Association Criminal Justice Section Award for “outstanding contribution in the field of criminal law education,” Jan. 23, 2003

Sanford D. Levy Award, given by New York State Bar Association Committee on Professional and Judicial Ethics, 1990

PUBLICATIONS

Articles in Law Journals

Lawyers and the Lies They Tell, Wash. U. J. Law & Pol'y (forthcoming 2022) (with Rebecca Roiphe), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3982663

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Foreword: In Honor of Prof. Bennett L. Gershman, 16 Ohio St. J. Crim L. 291 (2019) (with Peter Joy & Ellen Yaroshefsky)

Prosecutorial Discretion: The Difficulty and Necessity of Public Inquiry, 123 Dickinson L. Rev. 589 (2019)

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May Federal Prosecutors Take Direction from the President?, 87 Fordham L. Rev. 1817 (2019) (with Rebecca Roiphe)

Lawyers in Government Service – A Foreword, 87 Fordham L. Rev. 1791 (2019)

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Learning to Live with Judicial Partisanship: A Response to Cassandra Burke Robertson, 70 Fla. L. Rev. F. 114 (2018) (with Rebecca Roiphe), http://www.floridalawreview.com/wp-content/uploads/GreenRoiphe_published.pdf

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Urban Policing and Public Policy – the Prosecutor’s Role, 51 Georgia L. Rev. 1179 (2017)

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The Price of Judicial Economy in the US, 7 Oñati Socio-Legal Series no.4, 790-808 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3035295

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Unregulated Corporate Internal Investigations: Achieving Fairness for Corporate Constituents, 54 B.C. L. Rev. 73 (2013) (with Ellen S. Podgor)

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The Flood of U.S. Lawyers: Natural Fluctuation or Professional Climate Change?, 19 Int’ J. Legal Prof. 193 (2012)

Prosecutors and Professional Regulation, 25 Georgetown J. Legal Ethics 873 (2012)

The Community Prosecutor: Questions of Professional Discretion, 47 Wake Forest L. Rev. 285 (2012) (with Alafair S. Burke)

Foreword, Globalization and the Legal Profession, 80 Fordham L. Rev. 2305 (2012)

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Panelist, “Lawyer Discipline and Executive Branch Lawyers,” Cardozo Law School, Oct. 29, 2020

Panelist, “Ethical Considerations for Corporate Investigations in the World of Covid-19,” N.Y. City Bar, Sept. 17, 2020

Co-speaker, “CJS History: The History of the CJS Standards Project,” The JustPod, Aug. 20, 2020, <https://www.buzzsprout.com/252350/4970960-cjs-history-the-history-of-the-cjs-standards-project>

Commenter, “Discussion Group: State Your Case: The Influence of State Court Decisions, Tribal Courts, and State and Local Level Reforms on Criminal Practice,” Southeastern Association of Law Schools 2020 Annual Conference, Aug. 3, 2020

Speaker, “Discussion Group: Prosecution: Implications of the Progressive Prosecution Movement,” Southeastern Association of Law Schools 2020 Annual Conference, Aug. 2, 2020

Faculty, “Are Outside Counsel Guidelines a Threat to the Practice?,” ABA webinar, April 20, 2020

Co-speaker, “Ethical Issues in the Practice of the Attorney General’s Office,” Office of the NYS Attorney General, Feb. 13, 2020

Panelist, “Ethical Considerations for Corporate Lawyers in 2020,” Cardozo Law School, Feb. 5, 2020

Panelist, “Achieving Access to Justice Through ADR: Fact or Fiction?,” Fordham Law School, Nov. 1, 2019

Panelist, discussion of Lonnie T. Brown, Jr., *Defending the Public’s Enemy: The Life and Legacy of Ramsay Clark*, University of Georgia School of Law, Oct. 3, 2019

Panelist, “Ethical Considerations for Corporate Investigations: Views from All Sides,” N.Y. City Bar, Sept. 18, 2019

Moderator, “Risky Business: The Mueller Minefield and Ethical Dilemmas for Lawyers Involved in Government Investigations,” ABA 2019 Annual Meeting, San Francisco, California, Aug. 9, 2019

Panelist, “‘Less fast, Less Furious’?: Protecting Clients & the Public in an Era of Regulatory Reform,” Association of Professional Responsibility Lawyers 2019 Annual Meeting, San Francisco, California, Aug. 9, 2019

Moderator, “Discussion Group: A 2020 Vision of Criminal Prosecution and Defense,” Southeastern Association of Law Schools 2019 Annual Conference, Boca Raton, Florida, July 30, 2019

Speaker, “Discussion Group: Vulnerable People, Fragile Rights, Criminal Justice,” Southeastern Association of Law Schools 2019 Annual Conference, Boca Raton, Florida, July 28, 2019

Presenter, Legal Ethics and Fiduciaries Workshop, Kylemore Abbey Global Center, University of Notre Dame, Connemara, County Galway, Ireland, June 20-21, 2019

Moderator, “Hard Legal Ethics Questions – How to Resolve Them or, Even Better, Avoid Them,” NY City Bar, May 16, 2019

Panelist, “Litigators and Witnesses: Ethical Considerations and Limitations,” NELA/NY Spring Conference, NY, NY, May 10, 2019

Panelist, “Conversations on the Warren Court’s Impact on Criminal Justice – After 50 Years,” Stetson University College of Law, April 5, 2019

Co-panelist, “Legal Ethics and Professional Responsibility,” Legal Issues in Museum Administration 2019, ALI-CLE, Washington, DC

Speaker, “Prosecutorial Discretion: The Difficulty and Necessity of Public Inquiry,” Symposium on Discretion and Misconduct: Examining the Roles, Functions, and Duties of the Modern Prosecutor, Penn State - Dickinson Law School, March 15, 2019

Panelist, “Avoiding Ethical Pitfalls in a Complicated Business Environment,” Cardozo Law School, Feb. 27, 2019

Panelist, “Special Counsel Investigations and Legal Ethics,” Duquesne University School of Law, Feb. 8, 2019

Speaker, “Current Developments in internal investigations in US Criminal Law and Procedure,” Internal Investigations – Comparative Workshop on US, UK and German Law, House of Finance, Goethe University, Frankfurt, Germany, Jan. 31, 2019

Panelist, “The Ethical Obligations of a Lawyer to Learn the True Facts,” NYS Bar Ass’n Annual Meeting, Jan. 15, 2019

Panelist, “Refresher Ethics: Steering Clear of Witness Minefields,” ABA Webinar, Dec. 18, 2018

Panelist, “The Ethics of Copyright Trolling (And More): A Game Show,” the Copyright Society of America, NY, NY, Dec. 13, 2018

Panelist, “Ethics for Corporate Counsel,” NYSBA Corporate Counsel Section, NY, NY, Nov. 30, 2018

Co-presenter, “May Federal Prosecutors Take Direction from the President?,” Faculty workshop, Rutgers Law School (Newark), Nov. 29, 2018

Moderator, “Lies, Damned Lies and ‘Alternative Facts,’” ABA Center for Professional Responsibility, Webinar, Oct. 11, 2018

Panelist, “Ethical Considerations for Corporate Investigations: Views from All Sides,” N.Y. City Bar, Oct. 4, 2018

Panelist, “Polish Your Ethics: Legal Sand Traps Trial Lawyers Should Avoid,” 2018 Annual Meeting, American College of Trial Lawyers, New Orleans, Louisiana, Sept. 27, 2018

Discussant, “Discussion Group: The Ethics of Legal Education,” 2018 Annual Conference, Southeastern Association of Law Schools, Ft. Lauderdale, Florida, August 9, 2018

Moderator, “Discussion Group: Judging – 50 Years After the Chicago Seven Trial,” al Defense,” 2018 Annual Conference, Southeastern Association of Law Schools, Ft. Lauderdale, Florida, August 7, 2018

Discussant, “Discussion Group: Conversations on the Warren Court’s Impact on Criminal Justice,” 2018 Annual Conference, Southeastern Association of Law Schools, Ft. Lauderdale, Florida, August 6, 2018

Panelist, “Litigators’ Ethics CLE,” 2018 Second Circuit Judicial Conference, Saratoga Springs, NY, June 14, 2018

Presenter, “More than a Stern Rebuke: A ‘Broken Windows’ Strategy for Judges Policing Prosecutors,” Criminal Justice Ethics Schmooze, Brooklyn Law School, June 11, 2018

Panelist, “Ethics of Working with Witnesses, ABA Webinar, recorded June 6 2018, to be aired Aug. 15, 2018

Moderator, “Lies, Damned Lies and ‘Alternative Facts,’” 44th ABA National Conference on Professional Responsibility, Louisville, Kentucky, May 31, 2018

Panelist, “Social Media: Legal, Ethical and Practical Considerations for Lawyers,” Federal Bar Council, Bridgeport, Connecticut, May 21, 2018

Moderator, “An Ounce of Prevention: How to Reduce Liability, Disciplinary and Reputational Risks, N.Y. City Bar, May 16, 2018

Panelist, “Ethics: Financing Mass Torts,” 2018 Drug & Medical Device Seminar, Defense Research Institute, NY, NY, May 11, 2018

Presenter, “Professional Discipline of US Advocates,” Workshop on “Regulating Lawyers Through Disciplinary Systems,” International Institute for the Sociology of Law, Oñati, Spain, April 26, 2018

Panelist, “Sentencing Reform from the Bench: The Emerging Role of District Court Judges,” NYU Annual Survey of American Law, NYU School of Law, March 26, 2018

Panelist, “Ethical Pitfalls and Pratfalls in Corporate Representations: Conflicts, Waivers, and Common Interest and Joint Defense Agreements,” Cardozo Law School, March 7, 2018

Panelist, “Prying Eyes: Think Confidential and Privileged Client Information is Safe at the Border: Think Again,” 32nd Annual National Institute on White Collar Crime, ABA, San Diego, CA, March 2, 2018

Moderator, “Creating Groundbreaking Research on Neuroscience and Law,” conference on The Future of Neuroscience and Law, Fordham Law School, Feb. 21, 2018

Panelist, Litigation Ethics and New Technology, Federal Bar Council 2018 Winter Bench & Bar Conference, Nevis, Feb. 16, 2018

Speaker, “Love in the Time of Cholera or Ethics in the Time of Trump?,” McInerney Inn of Court, U.S. Courthouse, SDNY, NY NY, Feb. 7, 2018

Panelist, “Whistleblowers, Reporting Up, and the Professional Rules of Ethics, NYS Bar Ass’n Annual Meeting, NY, NY, Jan. 24, 2018

Co-chair and co-moderator, “Ethical Issues in Pro Bono Representation,” PLI, Dec. 14, 2017

Organizer and commentator, “Regulation of Legal and Judicial Services Conference: Comparative and International Perspectives,” Stein Center for Law and Ethics, Fordham Law School, Dec. 8-9, 2017

Panelist, “Ethics in Legal Practice: An Update and Review of Recent Ethics Opinions in 2017,” NYS Bar Ass’n, Albany, NY, Dec. 6, 2017

Moderator, “Ethics and Criminal Justice Hypotheticals,” Appellate Division, Third Department, Albany, NY, Oct. 31, 2017

Panel moderator, “Access to Justice and the Legal Profession in an Era of Contracting Civil Liability,” Fordham Law School, Oct. 27, 2017

Panelist, “The Death of Conflicts,” Federal Bar Council Fall Bench & Bar Retreat, New Paltz, NY, Oct. 22, 2013

Speaker, “The Right to Two Criminal Defense Lawyers,” Symposium on Disruptive Innovation in Criminal Defense, Mercer University School of Law, Oct. 6, 2017

Panelist, “Ethical Considerations for Corporate Investigations: Views from All Sides,” N.Y. City Bar, Sept. 27, 2017

Presenter, “Comparative Approaches to Regulation and Protection of Lawyers,” 2017 Seasonal Meeting of the NYSBA International Section, Antigua, Guatemala, Sept. 14, 2017

Panelist, “Prying Eyes: Think Confidential and Privileged Client Information is Safe at the Border? Guess Again.,” ABA CLE Showcase Program, ABA 2017 Annual Meeting, NY, NY, Aug. 11, 2017

Panelist, “Defending the Public’s Enemy: The Journey of Ramsay Clark,” 2017 Annual Conference, Southeastern Association of Law Schools, Boca Raton, Florida, August 3, 2017

Discussant, “Discussion Group: Reflections on the 2016 ABA Report on the Future of Legal Services in the United States,” 2017 Annual Conference, Southeastern Association of Law Schools, Boca Raton, Florida, August 3, 2017

Discussant, “Discussion Group: Incorporating Developments in Forensic Science and Technology into the Criminal Justice System,” 2017 Annual Conference, Southeastern Association of Law Schools, Boca Raton, Florida, August 2, 2017

Discussant, “Discussion Group: Criminal Justice and Technology: Changes in Law, Practice, and Culture,” 2017 Annual Conference, Southeastern Association of Law Schools, Boca Raton, Florida, August 1, 2017

Moderator & organizer, “Discussion Group: Disruptive Innovation in Criminal Defense,” 2017 Annual Conference, Southeastern Association of Law Schools, Boca Raton, Florida, July 31, 2017

Co-presenter, “The President, the Department of Justice, and Prosecutorial Independence” (work-in-progress), Legal Ethics Schmooze, UCLA, July 21, 2017

Panelist, “Ethics for OAG Lawyers,” Office of the NYS Attorney General, June 20, 2017
Moderator, “A Difference of Opinion: Federal-State Conflict in Lawyer Ethics Matters,” ABA 43rd National Conference on Professional Responsibility, St. Louis, Missouri, June 2, 2017

Presenter, work-in-progress, “Academic Scholarship Roundtable,” ABA 43rd National Conference on Professional Responsibility, St. Louis, Missouri, June 2, 2017

Presenter on Legal Ethics, Office of the Public Defender, Tel Aviv, Israel, May 22, 2017

“Candor to the Court and Client,” Annual Lecture on Legal Ethics, The David Weiner Center for Lawyers’ Ethics and Professional Responsibility, The Haim Striks School of Law - The College of Management and Academic Studies, Rishon LeZion, Israel, May 21, 2017

Moderator, “Ethical Issues in Criminal Defense and Prosecution: the Role of Rules, Standards, Case Law and Professional Judgment,” ABA Criminal Justice Section Spring Meeting, Jackson Hole, Wyoming, May 5, 2017

Co-presenter, ethics training, Federal Defender - Eastern District of Pennsylvania, Philadelphia, PA, May 2, 2017

Panelist, “Common Ground on Criminal Discovery and the Future of Brady v. Maryland, 2017 Spring Symposium: Finding Common Ground: Preventing Errors in Criminal Justice, Quattrone Center for the Fair Administration of Justice, University of Pennsylvania Law School, April 21, 2017

Moderator, “Working Ethically with Non-Lawyer Professionals in Public Interest Settings,” Fordham Law School, March 30, 2017

Panelist, “Ethical Considerations for the Business and Corporate Attorney,” Cardozo Law School, March 7, 2017

Panelist, “Timely Ethics Issues: Interacting With Witnesses, Firm General Counsel,” 2017 Winter Bench & Bar Conference, Federal Bar Council, Palm Springs, California, Feb. 24, 2017

Presenter, “The Challenges and Rewards of Teaching Legal Ethics,” 2017 Legal Ethics Conference – New Challenges in Legal Ethics, California Western School of Law, Feb. 11, 2017

Presenter, Symposium, “Protect and Serve: Perspectives on 21st Century Policing,” Univ. of Georgia School of Law, Jan. 27, 2017

Panelist, “The Attorney’s Role in Promoting a Strong Corporate Culture,” NYSBA Annual Meeting, Business Law Section & Corporate Counsel Section, NY, NY, Jan. 25, 2017

Co-presenter, “Immigration Ethics,” Justice AmeriCorps Year 3 National Training, Potomac, Maryland, Jan. 11, 2017

Co-chair and co-moderator, “Ethical Issues in Pro Bono Representation,” PLI, Dec. 15, 2016

Panelist, “Managing Your Client’s Image in the Court of Public Opinion,” NYCLA, Nov. 16, 2016

Panelist, “Wearing Two Hats as a Neutral and an Attorney: How to deal with inconsistent mandates in the ethical codes for lawyers and neutrals,” NYSBA Dispute Resolution Section Fall Meeting, NY Law School, Oct. 28, 2016

Co-panelist, “Ethical considerations when representing clients with, or defending actions brought by individuals with, mental disabilities and impairments,” Disability Law Forum, N.Y. City Bar, Oct. 13, 2016

Panelist, “Ethical Considerations for Corporate Investigations: Views from All Sides,” N.Y. City Bar, Sept. 21, 2016

Moderator & organizer, “Discussion Group: Re-imagining the Ideal Role of Prosecutors,” 2016 Annual Conference, Southeastern Association of Law Schools, Amelia Island, Florida, August 6, 2016

Discussant, “The Future of Legal Ethics Scholarship: Are We in the End Days or Just Getting Started?” 2016 Annual Conference, Southeastern Association of Law Schools, Amelia Island, Florida, August 5, 2016

Organizer, The Ethics and Regulation of Lawyers Worldwide: Comparative and Interdisciplinary Perspectives, Seventh biannual International Legal Ethics Conference, International Association of Legal Ethics, New York, July 14-16, 2016

Co-presenter, “Rethinking Prosecutors’ Conflicts of Interest,” CrimFest, Cardozo Law School, July 12, 2016

Presenter, “The Price of Judicial Economy in the US,” Workshop on “Too Few Judges? Regulating the Number of Judges in Society,” International Institute for the Sociology of Law, Oñati, Spain, July 1, 2016

Panelist, “Corruption Scandals, the Panama Papers, and the Transnational Lawyer in Latin America: Strengthening the Profession through Better Ethics Standards,” NY City Bar, June 6, 2016

Moderator, "The Decision-Making Conundrum When Representing a Child or Mentally Impaired Adult," ABA National Conference on Professional Responsibility, Philadelphia, PA, June 3, 2016

Panelist, "Litigators' Ethics: An Interactive Discussion of Problems of Confidentiality and Disclosure," 2016 Second Circuit Judicial Conference, Saratoga, NY, May 25, 2016

Moderator, "Ethics Gumbo: First You Make a Roux," ABA National Legal Malpractice Conference, New Orleans, Louisiana, April 28, 2016

Panelist, "Surveillance and the Attorney-Client Relationship: Recent International Developments," Seventh International Professional Responsibility Conference, Association for Professional Responsibility Lawyers, Paris, France, April 13, 2016

Presenter, "Ethics in Class Actions: 2015-16 Update," Institute for Law & Economic Policy, 22nd Annual Symposium, April 8, 2016, Miami Beach, Florida

Moderator, "Brandeis and Lawyering (II)," Conference on Louis D. Brandeis: An Interdisciplinary Perspective, Touro Law Center, Mar. 31, 2016

Speaker, Georgetown Journal of Legal Ethics Symposium on "Remaining Ethical Lawyers in a Changing Profession," Georgetown Univ. Law Center, Mar. 18, 2016

Panelist, "Current Issues in Corporate Representation," Cardozo Law School, Feb. 9, 2016

Panelist, "Watch Out Below! Avoiding Ethical Pitfalls in Class Action Litigation," NYSBA Antitrust Law Section, Annual Meeting, NY, NY, Jan. 28, 2016

Moderator, "Ethics in Criminal Practice, The Hardest Questions Today: A Conversation in Honor of Monroe Freedman," AALS Annual Conference, NY, NY, Jan. 7, 2016

Co-chair and co-moderator, "Ethical Issues in Pro Bono Representation," PLI, Dec. 11, 2015

Panelist, "Social Responsibility of Corporations," CJS Global White Collar Crime Institute, ABA Criminal Justice Section & KoGuan Law School, Shanghai, China, Nov. 20, 2015

Presenter & Facilitator, Professional Responsibility and Ethics in the Global Legal Market, Moscow State University Law School, Moscow, Russia, Oct. 28-31, 2015

Panelist, "What Line? Reining in Prosecutorial Excesses: The Ethics and Strategy of Negotiations," NACDL's 11th Annual White Collar Crime Seminar, Fordham Law School, Oct. 22, 2015

Panelist, “Ethical Considerations for Corporate Investigations: Views from All Sides,” N.Y. City Bar, Sept. 11, 2015

Discussant, “Keeping the Conversation Going on Intractable Problems in the Criminal Justice System,” 2015 Annual Conference, Southeastern Association of Law Schools, Boca Raton, Florida, August 1, 2015

Commentator, “Defense Attorneys,” CrimFest 2015, Cardozo Law School, July 20, 2015
Presenter, “Rethinking Prosecutors’ Conflicts of Interest,” 2015 Legal Ethics Schmooze, Stanford Law School, June 25, 2015

Moderator, “Attorney Privilege and Work Product,” New York State-Federal Judicial Counsel & the Second Circuit Judicial Counsel, Brooklyn, NY, June 18, 2015

Moderator, “Ethics and Corporate Social Responsibility,” Corporate Social Responsibility Leadership Course, Fordham Law School, June 11, 2015

Organizer, moderator and presenter, “Criminal Justice Ethics Schmooze,” Fordham Law School June 8-9, 2015

Moderator, “Ineffective Assistance of Counsel and Forensic Evidence,” 6th Annual Prescription for Criminal Justice Forensics, ABA Criminal Justice Section & Louis Stein Center for Law and Ethics, Fordham Law School, June 5, 2015

Panelist, “Ethics and Professionalism: Best Practices for Attorneys,” N.Y. City Bar, May 18, 2015

Panelist, “Ethical Issues in FCPA Compliance & Investigations,” Practical Advice from the Front Lines,” Fordham Law School, May 12, 2015

Panelist, “Negotiation Ethics: Pitfalls and Rules,” NYSBA Committee on Women in the Law, NYC, May 5, 2015

Speaker, Conference on “Reconsidering Access to Justice,” Texas A&M Law School, May 1, 2015

Co-interviewee, “The Power of the Prosecutor,” Talks on Law, recorded April 22, 2015, available at: <http://www.talksonlaw.com/talks/26>

Moderator, Panel discussion: Thurgood Marshall’s Legacy, NYCLA, April 15, 2015

Moderator, “Hot Topics: Ethical Issues in Public Interest Lawyering,” Fordham Law School, March 31, 2015

Speaker, “Lawyers as Lovers: Are We Romanticizing the Lawyer-Client Relationship?,” Conference on Billy Joel & the Law, Touro Law School, March 22, 2015

Moderator, “Ethical Issues in Insurance Law: 2015 Update,” NYCLA, March 18, 2015

Panelist, “Developments in Ethics for Antitrust Lawyers,” ABA teleseminar, Feb. 24, 2015

Presenter, “Prosecutorial Accountability in the Information Age” (work-in-progress), faculty workshop, Notre Dame Law School, Feb. 21, 2015

Panelist, “The Ethics of Conflicts of Interest,” Clifford Law Offices Continuing Legal Education Program, Chicago, IL, Feb. 20, 2015

Panelist, “Current Ethical Issues in Corporate Representation,” Cardozo Law School, Feb. 11, 2015

Panelist, “The Ethical Minefields of Witnesses: A Refresher,” ABA Webinar, Dec. 19, 2014

Co-chair and co-moderator, “Ethical Issues in Pro Bono Representation,” PLI, Dec. 16, 2014

Panelist, “Ethical Considerations for Corporate Investigations: Views from All Sides,” N.Y. City Bar, Sept. 30, 2014

Panelist, “Taz, Morality & Ethics,” The Taslitz Galaxy: A Gathering of Scholars at Howard, Howard University School of Law, Sept. 19, 2014

Panelist, “Supreme Court Update and Other Notable Developments in Criminal Law,” Southeastern White Collar Crime Institute, ABA Criminal Justice Section, Braselton, Georgia, Sept. 12, 2014

Co-presenter, “Regulation of U.S. Prosecutors in the Information Age,” International Legal Ethics Conference VI, London, England, July 11, 2014

Presenter, “Reforming the regulation of the prosecutors: A slightly comparative perspective,” Conference of the International Working Group for Comparative Studies of the Legal Professions, Frauenchiemsee, Germany, July 7, 2014

Panelist, “International Ethics,” Ninth Annual Fordham Law School Conference on International Arbitration and Mediation,” June 12, 2014

Panelist, “Fifth Annual Prescription for Criminal Justice Forensics,” ABA Criminal Justice Section, NY, NY, June 6, 2014

Panelist, “Ethics of Working With Witnesses,” Professional Education Broadcast Network, May 16, 2014

Panelist, “Plenary: Twenty Years After the MacCrate Report: Revisiting the Continuum,” NCBE Annual Admissions Conference, Seattle, WA, May 3, 2014

Moderator, “Conflicts: The Basics and Recent Developments,” Ethics for In-House Counsel: New Developments & Future Challenges, Fordham Law School, March 20, 2014

Panelist, “Race and Access to Justice,” Georgetown Univ. Law Center, Washington, D.C., March 18, 2014

Co-speaker, “Professional Ethics for Public Interest Lawyers,” Brennan Center for Social Justice, NY, NY, Feb. 28, 2014

Panelist, “Attorney Client Privilege and Selective Waiver in Bank Regulation,” Cardozo Law School, Feb. 24, 2014

Panelist, “Who Are They to Judge? Ethical and Professionalism Issues Facing the Bench,” 11th Annual Legal Ethics & Professionalism Symposium, Univ. of Georgia Law School, Feb. 21, 2014

Panelist, “Bridge the Gap” C.L.E. Orientation Program, Committee on Character & Fitness (Supreme Court, Appellate Division, First Judicial Department), NYCLA, Feb. 19, 2014

Moderator, “Ethical Choices in Dealing with Crime Victims: What is a Prosecutor, Defender and Judge to Do?,” 2014 ABA Midyear Meeting, Chicago, IL, Feb. 7, 2014

Panelist, “Stop, Frisk & Judicial Independence: An Ethics CLE,” NY Chapters of the Puerto Rican Bar, Federal Bar and National Bar Associations, U.S. Courthouse, NY, NY, Jan. 8, 2014

Commentator, “The Lost Lawyer and the Lawyer-Statesman Ideal: A Generation Later – the Shifting Sands of Professional Identity,” AALS Annual Meeting, NY, NY, Jan. 4, 2014

Co-presenter, Workshop on Prosecutorial Ethics, Hitotsubashi Univ., Tokyo, Japan, Dec. 18, 2013

Co-presenter, Workshop on Prosecutorial Ethics, Japan Federation of Bar Associations, Tokyo, Japan, Dec. 17, 2013

Presenter, “Comparing the Honesty and Candor Obligations of U.S. Prosecutors and Defense Lawyers,” Chukyo Univ., Nagoya, Japan, Dec. 16, 2013

Moderator, panel on “Unbundled Legal Services,” “Until Civil Gideon: Expanding Access to Civil Justice,” Fordham Law School, Nov. 1, 2013

Moderator, “Ripped from the Headlines,” 9th Annual White Collar Seminar, NACDL, Washington, D.C., Oct. 24, 2013

Panelist, Federal Criminal Practice Institute, New York County Lawyers’ Association, Oct. 19, 2013

Panelist, “Ethical Considerations for Corporate Investigations: Views from All Sides,” Association of the Bar of the City of New York, Sept. 25, 2013

Moderator, “Criminal Discovery Under Brady v. Maryland: Current Developments,” Association of the Bar of the City of New York, Sept. 19, 2013

Moderator, “Navigating the Ethical Challenges in Counseling Unaccompanied Minors,” DCS Legal Access Project Managers’ Meeting, Vera Institute of Justice, July 31, 2013

Presenter, Ethics Workshop, Annual Capital Defense Training Program, New York City Bar, July 15, 2013

Panelist, “Culpability and White Collar Crime,” 2013 AALS Midyear Meeting, San Diego, CA, June 10, 2013

Panelist, “The Ethics of Sub-Prime Lending,” conference on The Mortgage Crisis—Five Years Later, Coalition for Debtor Education, Fordham Law School, June 3, 2013

Moderator, “Prosecutors’ Ethical and Professional Decision Making – Is it Unique?,” 39th ABA National Conference on Professional Responsibility, San Antonio, TX, May 30, 2013

Co-presenter, “Hot Topics in Legal Ethics,” Fordham Law School, May 20, 2013

Panelist, “Criminal Law and Ethics,” NYCLA, April 23, 2013

Panelist, “Religion and the Practice of Law,” 2013 Conference on Religious Legal Theory, Touro Law Center, April 11, 2013

Commentator, Conference on “The Ethical Infrastructure and Culture of Law Firms,” Hofstra Law School, April 5, 2013

Presenter, “The Gideon Effect: Rights, Justice and Lawyers Fifth Years After Gideon v. Wainwright,” Yale Law Journal Symposium, Yale Law School, March 9, 2013

Panelist, “Complying with Brady and Strategies for Defense Counsel,” 27th Annual National Institute on White Collar Crime, Las Vegas, Nevada, March 8, 2013

Panelist, “Ethics in White Collar Cases,” 27th Annual National Institute on White Collar Crime, Las Vegas, Nevada, March 7, 2013

Presenter, “Imagining Plea Bargaining Without Competent Counsel: Justice Scalia’s Pursuit of Less Perfect Justice,” conference on Plea Bargaining After Lafler and Frye, Duquesne Univ. School of Law, March 1, 2013

Moderator, “The Business and Ethics of Managing a 21st Century Law Firm: New, Smart and Ethical Business Models,” Fordham Law School, Feb. 26, 2013

Panelist, “Representing Financial Institutions and their Employees in SEC Enforcement Actions,” ABA Section of Business Law, White Collar Crime Committee, NY, NY, Feb. 13, 2012

Speaker, “New Developments in Attorney-Client Privilege,” AALS 2013 Annual Meeting, New Orleans, LA, Jan. 5, 2013

Chair and moderator, “Ethical Issues in Pro Bono Representation 2012,” PLI, Dec. 18, 2012

Panelist, “Ethical Issues for the Modern Day Prosecutor,” Kings County District Attorney’s Office, Nov. 20, 2012

Panelist, “Navigating Ethical Waters: Obstruction of Justice, Destruction of Evidence and False Statements,” 8th Annual White-Collar Seminar, NACDL, Fordham Law School, NY, NY, Nov. 15, 2012

Lecture, “Lawyers’ Professional Independence: Overrated or Undervalued?,” Miller-Becker Center for Professional Responsibility Distinguished Lecture Series, Akron Law School, Nov. 9, 2012

Speaker, “Federal Criminal Discovery Reform: A Legislative Approach,” symposium on Defining and Enforcing the Federal Prosecutor’s Duty to Disclose Exculpatory Information, the 13th Annual Georgia Symposium on Ethics and Professionalism, Mercer Law School, Oct. 5, 2012

Moderator, “Ethical Issues for Criminal Practitioners,” National Law Journal/Legal Times & Fordham Law School, recorded webinar broadcast on Oct. 2, 2012

Panelist, “Ethical Considerations for Corporate Investigations: Updates 2012,” Association of the Bar of the City of New York, Sept. 12, 2012

Speaker, "Lawyers' Professional Independence: Is it undervalued or overrated?," International Legal Ethics Conference V, Banff, Alberta, July 13, 2012

Panelist, "Law Without Walls," International Legal Ethics Conference V, Banff, Alberta, July 13, 2012

Presenter, "Ethical Practice in the Criminal Justice System: Finding Common Ground," National Institute for Teaching Ethics & Professionalism, Seattle, WA, June 22-24, 2012

Panelist, "Parallel Proceedings: Emerging Issues & Best Practices," Association of the Bar of the City of New York, June 13, 2012

Presenter, "Rehabilitating Lawyers: Perceptions of Deviance and Its Cures in the Lawyer Disciplinary Process," 2012 International Conference on Law & Society, Honolulu, HA, June 5, 2012

Panelist, "So You Think You're Up-to-Date on Attorney Client Privilege & Confidentiality," 38th ABA National Conference on Professional Responsibility, Boston, MA, June 1, 2012

Panelist, "Conflicts in the Face of Corporate Representations and Government Investigative Techniques," 1st Annual White Collar Crime Institute, Association of the Bar of the City of New York, May 14, 2012

Panelist, "Conflicts and Choice of Law Updates," Professional Responsibility and Legal Ethics: Exploring the Similarities and the Differences Across Legal Systems, Association of Professional Responsibility Lawyers International Conference, Istanbul, Turkey, May 4, 2012

Co-speaker, "Rehabilitating Lawyers: Perceptions of Deviance and its Cures in the Lawyer Reinstatement Process," The Law: Business or Profession? - The Continuing Relevance of Julius Henry Cohen for the Practice of Law in the Twenty-First Century, Fordham Law School, April 24, 2012

Speaker, "The Flood of U.S. Lawyers: Natural Fluctuation or Professional Climate Change?," Too Many Lawyers? - Facts, Reasons, Consequences, and Solutions, International Institute for the Sociology of Law, Oñati, Spain, April 20, 2012

Presenter, "Prosecutors and Professional Regulation," faculty workshop, Fordham Law School, March 22, 2012

Speaker, "Ethics," Counseling Clients in the Entertainment Industry 2012, PLI, March 12, 2012

Panelist, "Ethics for Government Lawyers 2012," PLI, March 9, 2012

Speaker, "Ethics for Government Lawyers," U.S. Environmental Protection Agency, Region 2, Office of Regional Counsel, March 8, 2012

Moderator, "Top Ten Reasons You'll Wish You had Become a Trust & Estates Lawyer: Ethical Pitfalls and Blunders in White Collar Practice," 26th National Institute on White Collar Crime, ABA, Miami, Florida, March 1, 2012

Panelist, "Developments in Ethics for Antitrust Lawyers," live webinar and teleconference, ABA Section of Antitrust Law, Feb. 16, 2012

Panelist, "Prosecutorial Accountability in the Post-Connick v. Thompson Era: Reforms and Solutions," ABA Death Penalty Representation Project et al., New Orleans, Louisiana, Feb. 4, 2012

Speaker, "Ethical Issues in Federal Practice," Current Developments in Federal Civil Practice 2012, PLI, Feb. 1, 2012

Panelist, "Technology in Your Practice - Trends, Tools and Ethics Rules," NYSBA Annual Meeting, Jan. 26, 2012

Panelist, "Rules of Professional Conduct and the Government Lawyer," NYSBA Annual Meeting, Jan. 24, 2012

Panelist, "Ethical Considerations in Setting Attorney Fees," NYSBA Annual Meeting, Jan. 24, 2012

Speaker, "Government Lawyering," 2012 Annual Meeting, AALS, Washington, D.C., Jan. 5, 2012

Chair and moderator, "Ethical Issues in Pro Bono Representation 2010," PLI, Dec. 21, 2010

Panelist, "Ethical Issues with Group Representation," LEAP conference on Civil Justice as bedrock value in Difficult Times, Nov. 29, 2011

Panelist, "The Watergate CLE," U.S. District Court - EDNY, Nov. 15, 2011

Panelist, "Future Ethics: Who Will Regulate Lawyers in 2020?," New York Law School, Nov. 14, 2011

Panelist, "Community Prosecution & Community Defense," Wake Forest Univ. School of Law, Nov. 4, 2011

Panelist, “Multi-jurisdictional rules of ethics and professional conduct: Coping with conflicting legal rules and privileges in a global business environment,” German-American Lawyers’ Association, NY, Oct. 25, 2011

Panelist, “What to Do? Has the Potential Client (Who Will Not Disclose) Intentionally Misrepresented?”, Working Group on Legal Opinions Fall 2011 Seminar, NY, Oct. 25, 2011

Panelist, “Sentencing Advocacy,” 2011 Federal Criminal Practice Institute, NYCLA, Oct. 15, 2011

Moderator, “Representing Clients With Diminished Capacity,” Association of the Bar of the City of New York, Oct. 13, 2011

Moderator, “The ABCs of D-efense in an E-lectronic Age: Ethics and Strategies,” 7th Annual White Collar Seminar, NACDL, Fordham Law School, Sept. 22, 2011

Panelist, “Ethical Considerations for Corporate Investigations: Updates 2011,” Association of the Bar of the City of New York, Sept. 15, 2011

Panelist, “Alternative Litigation Financing: A New Way to Help Pay for Lawsuits and Stay Out of Trouble While Doing It,” NYCLA, Sept. 14, 2011

Panelist, “The Ethical and Practical Challenges of Representing a Controversial Client,” Federal Bar Council & Stein Center, E.D.N.Y. federal courthouse, June 29, 2011

Panelist, “What is Good Lawyering?,” Conference on Padilla and the Future of the Defense Function, NACDL, Cardozo Law School, June 20, 2011

Luncheon speaker, “Staying Ahead of the Curve: What Every Criminal Defense Lawyer Needs to Know,” NYSBA, Albany, NY, June 17, 2011

Panelist, “Tackling Ethical Issues Arising in Criminal Cases,” NYCLA, June 16, 2011

Panelist, “Third Party Funding of International Arbitration Claims: The Newest ‘New New Thing,’” NYSBA Dispute Resolution Section & Fordham Law School ADR and Conflict Resolution Program, June 15, 2011

Panelist, “How the Rules of Professional Conduct Apply to Government Lawyers,” Seventeenth Annual Seminar on Ethics in New York City Government, NYC COIB & Center for New York City Law, New York Law School, May 17, 2011

Panelist, “Hypothetically Speaking II: Issues in the Attorney-Client Relationship under the Rules of Professional Conduct,” Association of the Bar of the City of New York, May 16, 2011

Moderator, "Ethics Update: Perspectives from the Federal and State Judiciary," N.Y.S. Federal Judicial Council - Advisory Group, E.D.N.Y. federal courthouse, May 11, 2011

Moderator, "Ethics Update: Perspectives from the Federal and State Judiciary," N.Y.S. Federal Judicial Council - Advisory Group, S.D.N.Y. federal courthouse, May 10, 2011

Panelist, "An Overview of Attorney Error: Malpractice, Breach of Ethical Rules and Ineffective Assistance of Counsel," Mental Hygiene Legal Service, May 3, 2011 (videotape)

Panelist, "The Top Five Ethical Violations and Resulting Claims for Legal Malpractice," Spring 2011 National Legal Malpractice Conference, ABA Standing Committee on Lawyers' Professional Liability, Boston, MA, April 28, 2011

Panelist, "Anatomy of a Trial: Young Lawyer Trial Skills Training," ABA Section of Litigation & Criminal Justice Section Annual CLE Conference," Miami, Florida, April 14, 2011

Panelist, "Ethics," IP Enforcement and Litigation 2011: Civil and Criminal Update, PLI, March 30, 2011

Panelist, "Ethical Implications of Legal Aid and Pro Se Assistance," Legal Aid Society, March 18, 2011

Speaker, "Criminal Defense Ethics," 25th Annual Metropolitan New York Trainer, NYS Defenders Ass'n, March 12, 2011

Moderator, "Criminal Defense?: The Ethical and Legal Line Between Zealous Advocacy and Obstruction of Justice," 25th National Institute on White Collar Crime, ABA Criminal Justice Section, Mar. 3, 2011, San Diego, CA

Panelist, "2011 Ethical Issues," 2011 Winter Bench & Bar Conference, Federal Bar Council, Los Cabos, Mexico, Feb. 21, 2011

Keynote Speaker, "Ted Schneyer's Impact on Legal Ethics Scholarship," The Ted Schneyer Ethics Symposium: Lawyer Regulation for the 21st Century, Univ. Of Arizona, James E. Rogers College of Law, Jan. 28, 2011

Panelist, "Ethical Pitfalls for Business Lawyers," Business Law Section, NYSBA Annual Meeting, Jan. 26, 2011

Co-speaker, "Legal Ethics & Professionalism," Nineteenth Annual London MCLE Fair, CLE Europe Limited, Jan. 15, 2011

Chair and moderator, "Ethical Issues in Pro Bono Representation 2010," PLI, Dec. 21, 2010

Moderator, "Ethical and Privilege Issues for Pharmaceutical Whistleblowers Counsel," Institutional Investor Educational Foundation, New York, NY, Dec. 9, 2010

Moderator, program on ethics and professionalism in criminal prosecution and defense, Multnomah County Courthouse, Portland, OR, Dec. 3, 2010

Panelist, "Ethics and the Construction Lawyer," NYCLA, Nov. 30, 2010

Speaker, "Ethical Practices for the Modern Prosecutor," Brooklyn District Attorney's Office. Oct. 26, 2010

Speaker, "Prosecutive Ethics," annual conference, National Association of Former United States Attorneys, Oct. 9, 2010

Moderator, "A Prosecutor's Brady/Discovery Obligations For Production of Documents," ABA Criminal Justice Section White Collar Crime Mid-Atlantic Regional Committee, Widener Law School, Wilmington, DE, Oct. 7, 2010

Panelist, "'Ethics and Litigation for Today's Trial Counsel," 2nd Annual Litigation Summit, Oct. 6, 2010

Panelist, "Ethical Considerations for Corporate Investigations: Updates 2010," Association of the Bar of the City of New York, September 15, 2010

Panelist, "Hot Ethics Issues for Young Trial Lawyers (and the Young at Heart)," ABA ANNUAL Meeting 2010, San Francisco, CA, August 7, 2010

Speaker, "Criminal; Defense Ethics," New York State Defenders Association 43rd Annual Meeting & Conference, Saratoga Springs, NY, July 27, 2010

Panelist, "Lawyers in Context: Ethical Decision Making in Practice," International Legal Ethics Conference IV, Stanford Law School, July 17, 2010

Moderator, "Prosecutors and their Disclosure Duties: A Regulatory Conundrum," 36rd National Conference on Professional Responsibility, ABA, June 3, 2010

Panelist, "Hypothetically Speaking: Considering Issues for the Practitioner under the New Rules of Professional Conduct," Association of the Bar of the City of New York, May 17, 2010

Panelist, "Bloomberg Corporate Internal Investigations: Ethical Considerations Seminar 2010," Bloomberg, NY, March 11, 2010

Panelist, “Protecting the Attorney-Client Privilege and Attorney Work Product,” 24th Annual National Institute on White Collar Crime, Miami, Florida, Feb. 25, 2010

Panelist, “Half a Century of Advice,” Committee on Professional Ethics, NYSBA Annual Meeting, Jan. 29, 2010

EXHIBIT B

Documents Considered

I. Docket Entries

1. ECF 1.
2. ECF 67.
3. ECF 97.
4. ECF 114.
5. ECF 229.
6. ECF 230.
7. ECF 231.
8. ECF 232.
9. ECF 234.
10. ECF 235.
11. ECF 236

II. Case Law

1. *Kincade v. Gen. Tire & Rubber Co.*, 635 F.2d 501, 508 (5th Cir. 1981).
2. *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768 (3d Cir. 1995).
3. *In re Am. Express Anti-Steering Rules Antitrust Litig.*, 2015 U.S. Dist. LEXIS 102714 (E.D.N.Y. Aug. 4, 2015).
4. *Banyai v. Mazur*, 2004 U.S. Dist. LEXIS 17572 (S.D.N.Y. Sept. 1, 2004).
5. *Maywalt v. Parker & Parsley Petroleum Co.*, 67 F.3d 1072 (2d Cir. 1995).
6. *Hayes v. Harmony Gold Mining Co.*, 509 F. App'x 21 (2d Cir. 2013).

III. Statutes

1. Fed. R. Civ. P., Rule 23.
2. Fed. R. Civ. P., Rule 23, Notes of Advisory Committee on 2003 amendments.

IV. Misc.

1. *Ava Labs, Avalanche and Roche Freedman*, Cryptoleaks, (August 26, 2022) available at <https://archive.ph/xic1e>.
2. Kyle Roche, *My Response*, Medium (August 29, 2022) available at <https://archive.ph/3zohh>.
3. 6 Newberg and Rubenstein on Class Actions § 19:2 (6th ed., June 2022 Update)
4. Ann. Manual Complex Lit. § 21.641 (4th ed.).
5. Bruce A. Green & Andrew Kent, *May Class Counsel Also Represent Lead Plaintiffs?*, 72 Fla. L. Rev. 1083 (2020).